

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 03-054**

Adopting Multnomah County HIPAA Privacy Policies and Directing the Appointment of County Privacy Officer

**The Multnomah County Board of Commissioners Finds:**

- a. Multnomah County is a "hybrid covered entity" under the federal Health Insurance Portability and Accountability Act. (HIPAA).
- b. As a hybrid covered entity, Multnomah County must adopt and implement policies regarding the protection of protected health information.
- c. Multnomah County is required by HIPAA to appoint a central person as the "Privacy Officer" for the County

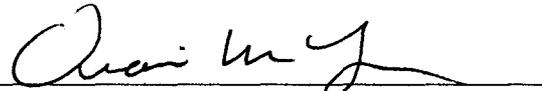
**The Multnomah County Board of Commissioners Resolves:**

1. To adopt the attached set of HIPAA Privacy Policies for implementation in Multnomah County and directs the Clerk of the Board to maintain a complete set, including any amendments.
2. To direct affected covered components within the "hybrid covered entity" to develop procedures specific to their work sites implementing these policies and to submit all procedures, including revisions, to the County Privacy Officer in DCBS.
3. To direct covered components to designate a "privacy official" for that component who will be the component's contact for all matters relating to HIPAA, including complaints from individuals.
4. To direct the Director of the Department of Business and Community Services to designate an employee of that department to serve as the County Privacy Officer.

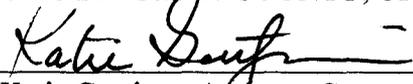
ADOPTED this 10th day of April 2003.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
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Diane M. Linn, Chair

AGNES SOWLE, ACTING COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
\_\_\_\_\_  
Katie Gaetjens, Assistant County Attorney

# Multnomah County HIPAA Privacy Policies

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# **Multnomah County HIPAA Privacy Policies**

## **Introduction**

**Multnomah County is a “hybrid covered entity” under the federal Health Insurance Portability and Accountability Act (HIPAA). The following policies are designed to assure the rights of individuals and to fulfill Multnomah County’s obligations under HIPAA.**

### **1. Notice of Privacy Practices 45 CFR 164.520**

Multnomah County recognizes an individual’s right to receive adequate notice of the uses and disclosures of the individual’s protected health information that may be made by Multnomah County and of the individual’s rights and Multnomah County’s legal duties with respect to protected health information. Each covered component within the hybrid-covered entity will develop a Notice of Privacy Practices. Covered components that have a direct treatment relationship will provide the Notice of Privacy Practices to the individual on the first date of service. Covered components that have public access to workplaces will post the Notice of Privacy Practices. Covered components will make available any procedures referenced in their Notices of Privacy Practices upon request.

### **2. Review and Resolution of Privacy Complaints 45 CFR 164.530(d)**

Each Multnomah County covered component will provide a process for individuals to make privacy complaints concerning Multnomah County’s compliance with federal privacy regulations (HIPAA). Each Multnomah County covered component will investigate all privacy complaints received.

### **3. Individual’s Right to Access Protected Health Information 45CFR 164.524**

Multnomah County recognizes the right of an individual to have access to (i.e. inspect and obtain a copy of) his or her protected health information which is maintained in the Designated Record Set for as long as the protected health information is maintained. An individual will have a right to access any protected health information in the Designated Record Set with the following exceptions:

- Psychotherapy notes
- Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding
- information that is prohibited for access by the Clinical Laboratory Improvements Amendments of 1998 (42 USC 263 a)
- information exempt from the Clinical Laboratory Improvements Amendments of 1998 (42 CFR 493.3(a)(2))
- other limitations under federal or state law

Multnomah County may deny access to individuals under certain circumstances detailed in the Multnomah County covered component's procedures for this policy.

**4. Individual's Right to Request Amendment of Protected Health Information  
45 CFR 164.526**

Multnomah County recognizes the right of an individual to request that Multnomah County amend protected health information about an individual maintained in its Designated Record Set for as long as the protected health information is maintained.

**5. Individual's Right to Request Alternative Communications 45 CFR 164.522(b)**

Multnomah County will accommodate any reasonable request by an individual to receive communications of his or her protected health information from Multnomah County by alternative means or at alternative locations. Multnomah County will determine if such a request has been approved before contacting the individual.

**6. Individual's Right to Request Restrictions on Uses and Disclosures  
45 CFR 164.522(a)**

Multnomah County recognizes the right of an individual to request that Multnomah County restrict uses or disclosures of the individual's protected health information to carry out treatment, payment or health care operations. Multnomah County is not required to agree to such a restriction; therefore Multnomah County will evaluate such requests in accordance with the Multnomah County covered component's procedures for this policy.

**7. Disclosing Information to Person's Involved In Individual's Care and Individual's Right to Restrict Disclosures 45 CFR 164.510(b)**

Multnomah County may under certain circumstances disclose protected health information to an individual's family member, other relative, close personal friend, or any other person involved with the individual's care or payment of the care unless the individual has requested a restriction on such disclosures or unless other legal restrictions apply.

Multnomah County may disclose protected health information to notify or assist in the notification of the individual's family member, personal representative or other person responsible for the individual's care of the individual's location, general condition or death unless the individual has requested a restriction on such disclosures.

Multnomah County may disclose protected health information to organizations involved in disaster relief efforts, for the purpose of coordinating with such organizations disclosures of the individual's location, general condition or death to the individual's family member, personal representative or other person responsible for the individual's care unless the individual has requested a restriction on such disclosures.

**8. Individual's Right to an Accounting of Disclosures of Protected Health Information 45 CFR 164.528**

Upon the request of the individual or the individual's personal representative, Multnomah County will provide an accounting of those disclosures of protected health information required by HIPAA. All covered components will develop procedures covering documentation of disclosures of PHI.

**9. Confidentiality/Privacy of Protected Health Information 45 CFR 164.502**

Multnomah County, its employees, and business associates will respect and protect the confidentiality and privacy of protected health information. All individually identifiable health information in any form is confidential and private. This includes written, electronic and oral communications.

**10. Uses and Disclosures of Protected Health Information Not Requiring the Individual's Authorization 45 CFR 164.512**

Multnomah County may use and disclose protected health information without the individual's authorization if permitted under the HIPAA Privacy Rule and Oregon and other federal laws as detailed in the Multnomah County covered component's procedures for this policy.

**11. Authorization for Uses and Disclosures of Protected Health Information 45 CFR 164.508**

If an authorization is required under federal or state law, each covered component will use an authorization containing the elements specified under federal and state law. A single authorization form may be used if it contains the elements of all applicable state and federal laws.

**12. Minimum Necessary 45 CFR 164.502 and 164.514(d)**

Multnomah County, when using, disclosing or requesting protected health information, will make reasonable efforts to limit the protected health information to the minimum necessary to accomplish the intended purpose of the use, disclosure or request with the following exceptions:

- Disclosures to or requests by a health care provider for treatment
- Disclosures made to the individual about his or her own protected health information
- Uses or disclosures authorized by the individual
- Disclosures made to the Secretary of Health and Human Services in accordance with the HIPAA Privacy Rule
- Uses or disclosures that are required by law
- Uses or disclosures that are required for compliance with the HIPAA Transaction Rule

Covered components may rely on the minimum necessary determination made by the following entities in responding to a request for protected health information:

- Public official
- Another covered entity
- A health care professional working for a business associate of Multnomah County
- A researcher with proper authorization

**13. Safeguarding of Protected Health Information 45 CFR 164.530(c)**

Multnomah County will safeguard protected health information to prevent unauthorized uses or disclosures. In addition, Multnomah County to the maximum extent possible will limit incidental uses or disclosures. An incidental use or disclosure is a secondary use or disclosure that cannot reasonably be prevented, is limited in nature, and occurs as a by-product of an otherwise permitted use or disclosure.

Each member of Multnomah County's workforce will use due care in limiting incidental disclosures as much as is reasonably practicable and will use caution and common sense when handling protected health information.

**14. Training of Workforce with Respect to Protected Health Information 45 CFR 164.530 (b)**

Multnomah County will train employees and other members of its workforce concerning Multnomah County's policies and procedures regarding the privacy of protected health information, as necessary and appropriate for the workforce member to carry out his or her specific job functions.

**15. Mitigation of Improper Disclosures 45 CFR 164.530(f)**

Multnomah County will mitigate, to the extent practicable, any harmful effect that is known by Multnomah County to have occurred as a result of a use or disclosure of protected health information in violation of the requirement of the HIPAA Privacy Rule or Multnomah County's policies and procedures by either Multnomah County or its business associates.

**16. Designated Record Set 45 CFR 164.501**

Each covered component of Multnomah County will retain the designated record set for the covered component. The designated record set will include the following when used by the covered component:

- The medical records and billing records about individuals maintained by or for a covered health care provider
- The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan
- Records used, in whole or in part, by or for the covered component to make decisions about individuals

**17. Disclosures of De-Identified Health Information 45 CFR 164.514**

Multnomah County may use or disclose de-identified health information without obtaining an individual's authorization. However, Multnomah County will not use or disclose de-identified health information about genetic testing unless Multnomah County notified the individual when the genetic test information was obtained of the individual's right to object to the use or disclosure of de-identified genetic test information, or unless the disclosure is otherwise authorized by law.

De-identified health information is health information that does not identify an individual and with which there is no reasonable basis to believe that the information can be used to identify an individual. Health information will be considered de-identified only if one of the two de-identification procedures in 45 CFR 514(b) are followed.

**18. Retention of Protected Health Information 45 CFR 164.530(j)**

Multnomah County will retain records containing protected health information in compliance with federal and state laws and retention schedules. Records included in the Designated Record Set are maintained for a minimum of six (6) years.

**19. Privacy Officer and Privacy Official 45 CFR 164.530(a)**

Multnomah County will appoint or designate a Privacy Officer for the County. The Privacy Officer is responsible to assure that each covered component develops and implements procedures based upon the County's HIPAA policies. The privacy officer will work closely with privacy officials within the covered components, facilitating a regular Privacy Team meeting. The privacy officer is authorized to have direct access or communication with department directors and the Chief Operating Officer.

**20. Business Associate Agreements 45 CFR 164.504(e)**

Each Multnomah County covered component will include HIPAA business associate requirements in all services contracts with business associates. Direct pay vendors who are business associates will be required to execute written business associate agreements.

**21. Policies and Procedures Requirements 45 CFR 164.530(i)**

Multnomah County will implement protected health information policies in accordance with HIPAA requirements. Each Multnomah County covered component will be responsible for implementing procedures that are reasonably designed to address the scope and type of activities undertaken by that covered component.

Countywide policies will be adopted by the Board of County Commissioners and maintained by the Clerk of the Board. Covered components' procedures will be maintained by the Multnomah County Privacy Officer. Each covered component's privacy official will also maintain a complete set of the covered component's procedures. Policies and procedures will be retained in compliance with established county records retention schedules.

Policies must be updated as necessary to comply with changes in the law. If a change materially affects a Notice of Privacy Practices, the Notice will be revised.

**22. Transition Provisions/Effect of Authorizations Obtained Prior to 4/14/03  
45 CFR 154.532**

Multnomah County may use a release, consent or authorization to use or disclose protected health information signed prior to April 14, 2003 for protected health information received prior to April 14, 2003. For protected health information received or created after April 14, 2003, an authorization meeting HIPAA requirements is necessary.

If an individual's protected health information is being lawfully used or disclosed for research purposes prior to April 14, 2003, a new authorization is not required to complete the research after April 14, 2003. An individual's protected health information is considered lawfully used or disclosed if the individual has expressly authorized or consented to its use or has given informed consent to participate in the research, or if an institutional review board has waived the informed consent requirements. All research initiated after April 14, 2003 must comply with HIPAA research requirements.

**23. Uses and Disclosures of Psychotherapy Notes 45 CFR 164.508(a) and 164.524(a)**

Multnomah County maintains the confidentiality of an individual's psychotherapy notes in accordance with HIPAA requirements. Multnomah County will not use or disclose psychotherapy notes without obtaining the individual's authorization or as described in the Multnomah County covered component's procedures. Multnomah

County may limit an individual's access to psychotherapy notes only as permitted under HIPAA or state law.

**24. Uses and Disclosures of Protected Health Information Created for Research  
45 CFR 164.512(i)**

Multnomah County may use or disclose protected health information for research if it obtains the individual's authorization for use or disclosure of protected health information or obtains a waiver of the authorization requirements from an Institutional Review Board or Privacy Board per the Common Rule (45 CFR 46.107).

**25. Limited Data Set 45 CFR 164.514(e)**

Multnomah County may use or disclose a limited data set for research, public health or health care operations purposes if Multnomah County enters into a data use agreement with the limited data set recipient. A limited data set is protected health information that excludes the following direct identifiers of the individual or of relatives, employers, or household members of the individual:

- Names
- Postal address information, other than town or city, state, and zip code
- Telephone numbers
- Fax numbers
- Electronic mail addresses
- Social security numbers
- Medical record numbers
- Health plan beneficiary numbers
- Account numbers
- Certificate/license numbers
- Vehicle identifiers and serial numbers, including license plate numbers
- Device identifiers and serial numbers
- Web Universal Resource Locations (URLs)
- Internet Protocol (IP) address numbers
- Biometric identifiers, including finger and voice prints
- Full face photographic images and any comparable images